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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/601,498 | 06/23/2003 | Kazuhiro Hosokawa | 10812-2US (USN03001) | 9671 |

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
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EXAMINER

LAY, MICHELLE K

ART UNIT PAPER NUMBER

2672

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/601,498 | Applicant(s) HOSOKAWA ET AL. | |
| | Examiner Michelle K. Lay | Art Unit 2672 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>102904</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "232" in the specifications and "234" in Fig. 30 have both been used to designate a glass. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "254" in Fig. 31 has been used to designate both a bus and program memory. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by

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the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 30 (Fig. 2), 54 and 60 (Fig. 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 1 – 16 are objected to because of the following informalities: minor grammatical errors. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 - 2, 4 - 16 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Application Publication No. US 2001/003439 A1 to Jacoby.

Referring to claims 1 and 4, Jacoby discloses a system that provides individuals with a personalized, user-experience data on consumer health products and services (page 4 [0045]). A database is created by directly questioning users about their conditions and the products, services, or treatment regimens that they used. This may be done in the form of surveys or questionnaires (page 4 [0049]) and may extend to many different types of questionnaires to be formulated about many different types of medical issues, such as symptoms, diseases, conditions, or any other topic (page 5 [0057]). The data is collected directly, where a match to a given set of data is to be found, and/or where data is analyzed and compared (page 3 [0035]). Furthermore, the submitted query is then processed so that a degree of relevance can be made (page 6 [0063]). This system may be comprised of a computer system (page 3 [0036]) consisting of a display device that can be any type of display (page 3 [0038]).

In regards to claims 2 and 4, Jacoby reveals the act of questioning the user in the form of surveys or questionnaires (page 4 [0049]). Referring to Figure

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2(A), the user is given a question (130) with multiple characteristics (135) to choose from that best describe the user. The system disclosed by Jacoby includes an input device that can be any type of input device (page 3 [0038]) to allow data to be entered.

In reference to claim 5, each survey as disclosed by Jacoby, is intended to be highly-tailored to "ask the right" questions about a particular subject. In order to do so, questions in a similar context may be asked in order to enable meaningful evaluation (page 4 [0049]).

Referring to claims 6 - 7, the system disclosed by Jacoby, allows for different types of decision tree structures for every question having more than one answer or having different issues relating to particular answers (page 5 [0051]). Jacoby further describes locating the most relevant information to the user based on the answers provided and the percentage of bearing (page 6 [0063]).

In accordance to claims 8, 10 and 11, Jacoby describes the system as a service relating to maintaining, changing, or improving the health of a person, maintaining, treating, cleaning, or improving, any part or portion of the human body, and/or treating one or more conditions, ailments, sicknesses, and the like, where the product or service can include those prescribed or directed by a health care professional (page 3 [0033]). This may be extended to a recommendation of food and beverage as claimed in 8, or proper-diet-plan as in claim 10 as determined fit by the response from the queries provided. As disclosed in Jacoby, as each set of questions is completed and submitted to the system, the

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information is aggregated with information that has been provided by other users (page 5 [0059]). This information may be retrieved from the database (Figure 4 (270)) and then displayed for the user to view (Figure 4 (280)).

Regarding claim 9, the disclosed system includes a network interface enabling the computer system to connect to a computer network (page 3 [0038]).

This system includes a display used by the user (page 3 [0038]) as claimed. Multiple descriptions are offered (Figure 2(A) (135)) pertaining to the question presented (Figure 2(A) (130)), allowing the user to select a description most concerning their condition. Furthermore, an analysis may be made on the answers provided, allowing for a ranking of relevance to be made (page 6 [0063]) and revealed via display (Figure 4 (280)).

Referencing Figures 3(B) and 3(C) of Jacoby in regards to claim 12, Jacoby illustrates multiple questions displayed on a webpage relating to the user's state. Advancing to Figure 4, it is described that the results may then be displayed by the use of a webpage (280).

Jacoby discloses the execution of the system may be performed by one or more computer programs to define the operational capabilities of the computer system (page 3 [0040]) as claimed in 13 and 15. This includes providing the user a question (Figure 2(A) (130)) with multiple characteristics (Figure 2(A) (135)) to choose the one that best describes the user. Additionally, a percentage of relevance is calculated (page 6 [0063]) based on the selections made by the user. The computer system includes a display (page 3 [0038]), allowing for the results to be viewed. These programs can be loaded into the computer system

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in many ways, such as via the hard disk drive, the floppy disk drive, tape drive, or they may reside in a permanent memory portion of the main memory (page 3 [0040]) (claims 14 and 16).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jacoby as applied to claim 1 above, and further in view of U.S. Patent Application Publication No. US 2002/0029232 A1 to Bobrow et al.

Jacoby teaches the claimed limitations of claim 3 with the exception of describing image data of at least one portion of the user's body in order determine the user's constitution. However, Bobrow et al. discloses a system in which images are sorted into meaningful groupings of objects that have similarities (Fig. 15 (1508)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the apparatus of Bobrow et al. to perform the image classification process in conjunction with the apparatus of Jacoby because this would provide a system to allow the user to obtain a meaningful and thorough conclusion about their health.

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Conclusion

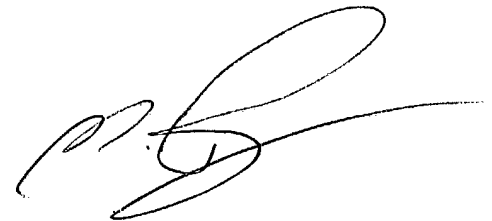
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle K. Lay whose telephone number is (703) 305-0887. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi, can be reached on (703) 305-4713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mkI

10.29.2004



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